

# **EXHIBIT 10**

NEWS [ /NEWS ]

# “People Need To Go Outside”: Rikers Detainees Say Loss Of Rec Time Is Intensifying Jails Crisis

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→ A correction officer on Rikers Island SETH WENIG/AP/SHUTTERSTOCK

When Matthew Christianson arrived on Rikers Island in mid-September, he didn't expect that two months would pass before he saw the sky again.

The 23-year-old, jailed on a parole violation and awaiting a bed in a Long Island drug treatment program, said he was placed in a crowded housing unit with minimal supervision and spiraling rates of violence.

Fights broke out almost daily, he said, eliciting rounds of pepper spray from correction officers that only heightened tensions. Both slashings and use of force incidents have reached their highest levels this year since a federal consent decree was issued in 2015 to oversee the city's jails. The sources of that pent-up rage were many, but for Christianson, one stood out.

"People need to go outside," he said. "You go crazy when you're cooped up all day long. We're trapped animals, stuck in a cage."

Under the Board of Correction's minimum standards (<https://www1.nyc.gov/site/boc/jail-regulations/minimum-standards.page>), all people in city custody are entitled to an hour of outdoor recreation each day. But that right, first codified in 1978, has all but disappeared since the start of the pandemic. Several detainees and correctional sources confirmed to WNYC/Gothamist that people in custody have gone weeks or even months without leaving their housing units.

At a board meeting this past May, multiple Board of Correction members pressed the Department of Correction on the lack of critical services, according to minutes of the meeting, including recreation being offered to detainees. But instead of increasing access to recreation, as the board had requested, Mayor Bill de Blasio issued an executive order

(<https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2021/eeo->

200.pdf), citing his emergency pandemic powers, officially suspending all city regulations concerning “adequate indoor and outdoor recreational opportunities” in order to prevent the spread of COVID.

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A spokesperson for the Department of Correction did not respond to an inquiry about the executive order. The agency blamed the lack of regular recreation on “unprecedented staffing shortages and the challenges posed by the pandemic.” Over the past year, hundreds of correction officers have regularly called out sick or gone AWOL, leaving roughly a third of the staff that is authorized to work among detainees unavailable.

In recent weeks, de Blasio has argued that the crisis on Rikers Island is easing. Recent data show that a portion of correction officers who've skipped out on work (<https://gothamist.com/news/de-blasio-dropped-suit-against-corrections-officers-union-hundreds-continue-skip-work>) have returned and the number of detainees exposed to COVID-19 has decreased. According to the DOC, extending outdoor recreation to more people remains a “high priority.”

But even as other activities have been restored after being paused because of COVID-19, such as religious services or barbershop access, the city's provision (<https://www1.nyc.gov/site/boc/jail-regulations/minimum-standards.page>) that

ensures “direct access to sunlight and air” remains suspended because de Blasio’s executive order is still in place.

Advocates and criminal justice experts argue that recreation, particularly “yard” time, has been treated by the city as a privilege for inmates, rather than a critical component of getting the jail back on track. With no end to the pandemic in sight, they worry that Mayor-elect Eric Adams will face little pressure to restore those rights when he takes office next month.

“When you’re able to get outside and look at the sky, maybe see the sun, maybe feel the breeze, it makes you feel like okay: ‘I’m not free, but I can dream of being free,’” said Anisah Sabor, a decarceration activist who speaks from personal experience, having been previously jailed on Rikers Island. “Being locked in 24/7, you don’t get those thoughts or feelings. You can’t have those dreams. It takes everything away from you.”

The situation appears to vary greatly among different jail facilities on Rikers, according to public defenders, detainees, and correctional sources who spoke to WNYC/Gothamist. Multiple people in custody at the Otis Bantum Correctional Center (OBCC), one of the largest jails on the island, said they had essentially been left to fend for themselves, deprived not only of regular outdoor time but of the “enrichment programming” — such as counseling and exercise classes — that Correction Commissioner Vince Schiraldi previously vowed to make available.

A corrections spokesperson said that everyone at OBCC had been ordered a tablet with access to Ted Talks and the law library, but noted the agency was still working on setting up Wi-Fi in the unit.

The absence of outdoor recreation has also impacted those in restrictive housing units, where detainees are confined to small spaces and cut off from human contact for 23 hours per day. After the mayor pledged to limit the city’s use of

solitary, he pushed back the deadline

(<https://www.thecity.nyc/2021/11/2/22760112/de-blasio-delays-solitary-confinement-reform-over-rikers-chaos>) for making those changes – which would have entitled detainees in “punitive segregation” to leave their cells for 10 hours each day – last month.

One 24-year-old, who – according to his attorney – spent three weeks in “the box” in early November for allegedly fighting, said he could count the number of times he went outside on one hand.

“Twenty-four hours a day I was in my cell,” said the detainee, who asked for his name to be withheld for fear of retaliation from correctional staff.

After a judge ordered that the detainee be moved to a dormitory housing unit, he said he began receiving recreation about once a week. Typically, he said, that meant a trip to an indoor gym. “Even if you’re in the gym, the jail’s still got that toxic air,” he added.

A class action (<https://www.classaction.org/media/dunn-et-al-v-the-city-of-new-york.pdf>) lawsuit filed by two Rikers detainees last month noted the “near evisceration of recreation, services, and programming” as one cause of the crisis.

In cases prior to the pandemic, courts have reached a range of conclusions on whether prisoners are entitled to outdoor recreation. But they have generally held that pre-trial detainees – who make up the vast majority of Rikers’ population – have a constitutional right

(<https://www.prisonlegalnews.org/news/1995/jan/15/unconstitutionality-of-floridas-outdoor-yard-policies-for-close-management-prisoners/>) to recreation under the 14th amendment.

"We know that human beings need fresh air," said Amy Fettig, a human rights lawyer and executive director of the Sentencing Project. "When people are trapped in their cells, unable to move around or socialize or see a different environment, that can become a torturous experience."



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